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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Thomas James Rogers,

10 Plaintiff,

11 v.

12 RTX Corporation,

13 Defendant.
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No. CV-24-00519-TUC-RM

ORDER

15 Plaintiff, who is proceeding pro se, initiated this action by filing a Complaint (Doc.
16 1) and paying the filing fees (Doc. 2). Plaintiff later filed a First Amended Complaint
17 (“FAC”) as a matter of course under Rule 15(a)(1) of the Federal Rules of Civil Procedure.
18 (Doc. 13.) Pending before the Court is Defendant’s Motion to Dismiss Plaintiff’s Amended
19 Complaint. (Doc. 16.) Plaintiff was informed of his rights and responsibilities to respond
20 (Doc. 19), and Plaintiff opposes the Motion (Doc. 25). For the following reasons,
21 Defendant’s Motion to Dismiss will be granted.

22 **I. Plaintiff’s First Amended Complaint¹**

23 In his 128-page FAC, Plaintiff brings eight counts against Defendant RTX
24 Corporation (“Defendant” or “RTX”). (Doc. 13.)² Plaintiff’s claims generally arise out of

25 ¹ As Defendant notes, Plaintiff’s FAC does not comply with Local Rule of Civil Procedure
26 15.1(b), which requires the amending party to file a separate notice with a copy of the
27 amended complaint that indicates how it differs from the original, “by bracketing or
28 striking through the text that was deleted and underlining the text that was added.” (See
Doc. 13); LRCiv 15.1(b). Defendant also correctly highlights that the FAC does not satisfy
Rule 10(b) of the Federal Rules of Civil Procedure because it is not organized into
numbered paragraphs. (See Doc. 13); Fed. R. Civ. P. 10(b).

² All record citations refer to the page numbers generated by the Court’s electronic filing

1 his former employment with Defendant and specific events following an alleged workplace
2 injury on July 24, 2023. (*Id.* at 1-3.) Plaintiff alleges that he tripped over an improperly
3 parked forklift in a poorly lit and congested walkway at Defendant’s facility, resulting in
4 significant injuries. (*Id.*) Based on these events and other workplace grievances, Plaintiff
5 brings the following claims.

6 In Count I, Plaintiff claims that Defendant engaged in “gross negligence” by failing
7 to comply with OSHA standards and that it breached its legal duty to provide a safe
8 workplace, as required by OSHA, leading to his injury involving the forklift. (Doc. 13 at
9 2.) In Count II, Plaintiff alleges Defendant breached his employment contract by not
10 adhering to its Code of Conduct and failing to investigate Plaintiff’s complaints. (*Id.* at
11 29.) In Count III, Plaintiff accuses Defendant of negligent and intentional
12 misrepresentation based on its failure to follow its Code of Conduct. (*Id.* at 33.) In Count
13 IV, Plaintiff alleges that Defendant failed to maintain a safe work environment, in violation
14 of OSHA. (*Id.* at 47.) In Count V, Plaintiff claims that Defendant discriminated against
15 him based on age, in violation of the Age Discrimination in Employment Act (“ADEA”).
16 (*Id.* at 54.) In Count VI, Plaintiff alleges sex discrimination under Title VII of the Civil
17 Rights Act of 1964, claiming Defendant treated female employees more favorably. (*Id.* at
18 64.) In Count VII, Plaintiff claims that Defendant retaliated against him for filing EEOC
19 and internal complaints by fabricating insubordination claims and denying him work
20 opportunities, in violation of Title VII. (*Id.* at 65.) In Count VIII, Plaintiff alleges that
21 Defendant allowed a hostile work environment, in violation of Title VII. (*Id.* at 76.)

22 As relief, Plaintiff seeks compensatory damages of “approximately \$500,000” and
23 punitive damages of \$250,000,000. (*Id.* at 128.)

24 **II. Defendant’s Motion to Dismiss**

25 Defendant moves to dismiss Plaintiff’s FAC with prejudice and without leave to
26 amend under Federal Rules of Civil Procedure 8(a)(2) and 12(b)(6). (Doc. 16.) First,
27 Defendant argues that the FAC violates Rule 8(a)(2) because it does not provide a short

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system.

1 and plain statement of Plaintiff's claims. (*Id.* at 15-16.) Specifically, Defendant contends
2 that the FAC fails to provide fair notice of the claims against it because the FAC is
3 excessively long, disorganized, and relies on irrelevant and conclusory allegations. (*Id.* at
4 17-18.)

5 Next, Defendant asserts that the FAC fails to state any claim upon which relief can
6 be granted. (*Id.* at 19.) Specifically, Defendant argues that Arizona's workers'
7 compensation statute bars Plaintiff's workplace injury claims (Counts I and IV), and that
8 any claims based on OSHA regulations are foreclosed because OSHA affords no private
9 right of action. (*Id.* at 19-21.) Defendant contends that Plaintiff's breach of contract and
10 misrepresentation claims (Counts II and III) fail because they are based on the company's
11 Code of Conduct, which is not an enforceable contract. (*Id.* at 21-22.) Defendant urges
12 the Court to dismiss the sex discrimination claim (Count VI) for lack of subject matter
13 jurisdiction because it was not raised in Plaintiff's EEOC charge and, therefore, was not
14 administratively exhausted. (*Id.* at 22-23.) Defendant argues that the age discrimination
15 claim (Count V) should be dismissed because it relies on vague and conclusory allegations
16 without specific facts that reasonably suggest that Plaintiff's supervisors acted with
17 discriminatory intent. (*Id.* at 23-26.) Defendant contends that the retaliation claim (Count
18 VII) fails because Plaintiff does not allege that he engaged in protected activity or
19 experienced a materially adverse employment action. (*Id.* at 26-28.) Finally, Defendant
20 argues that the hostile work environment claim (Count VIII) fails because it lacks
21 allegations of conduct that was severe or pervasive, or connected to any protected trait.
22 (*Id.* at 28-29.)³

23 In his Response, Plaintiff asserts that Defendant promised a safe, non-retaliatory
24 workplace, and yet, he was subject to retaliation, including a strategically timed "happy
25 hour" intended to "stop [Plaintiff's] co-workers from attending his farewell gathering,"

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27 ³ If the Court declines to dismiss this action, Defendant requests that the Court strike the
28 defamatory and irrelevant allegations made by Plaintiff about his former co-workers, in
accordance with Rule 12(f) of the Federal Rules of Civil Procedure. (Doc. 16 at 17.)
Because the Court is dismissing the FAC, Defendant's request to strike these allegations
will be denied as moot.

1 management inquiries about his ethics complaints, and the denial of a going-away
 2 celebration. (Doc. 25 at 2-3.) He maintains that his sex discrimination claim is viable
 3 despite not being included in his EEOC charge because Defendant “brought it up.” (*Id.* at
 4 4.) He argues that his age discrimination claim is best supported by witness testimony.
 5 (*Id.*) Plaintiff insists that he will substantiate a hostile work environment claim through
 6 discovery. (*Id.* at 5-6.) Finally, Plaintiff requests that the Court deny Defendant’s Motion
 7 and grant him leave to amend his Complaint. (*Id.* at 7.)

8 In its Reply, Defendant asserts that Plaintiff’s Response does not dispute
 9 Defendant’s arguments that the workplace injury claims are preempted by Arizona’s
 10 workers’ compensation statute, that OSHA does not provide a private right of action, and
 11 that the RTX Code of Conduct does not constitute a contract for purposes of the breach of
 12 contract and misrepresentation claims. (Doc. 26 at 5-6.) Furthermore, Defendant argues
 13 that the sex discrimination claim must be dismissed because Plaintiff admits that he did not
 14 exhaust his administrative remedies. (*Id.* at 6.) With respect to Plaintiff’s age
 15 discrimination, retaliation, and hostile work environment claims, Defendant asserts that
 16 Plaintiff fails to allege sufficient facts to state claims upon which relief can be granted. (*Id.*
 17 at 7-10.)

18 **III. Failure to State a Claim**

19 A complaint must contain “a short and plain statement of the claim showing that the
 20 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Dismissal of a complaint, or any claim
 21 within it, for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) may
 22 be based on either a “‘lack of a cognizable legal theory’ or ‘the absence of sufficient facts
 23 alleged under a cognizable legal theory.’” *Johnson v. Riverside Healthcare Sys., LP*, 534
 24 F.3d 1116, 1121 (9th Cir. 2008) (quoting *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696,
 25 699 (9th Cir. 1990)). “To survive a motion to dismiss, a complaint must contain sufficient
 26 factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”
 27 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S.
 28 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content

1 that allows the court to draw the reasonable inference that the defendant is liable for the
 2 misconduct alleged.” *Id.* While a complaint need not include “detailed factual
 3 allegations,” it must contain more than labels, conclusions, “and a formulaic recitation of
 4 the elements of a cause of action.” *Twombly*, 550 U.S. at 555. In evaluating a Rule 12(b)(6)
 5 motion to dismiss, the court must take as true all well-pleaded factual allegations of the
 6 complaint and construe them in the light most favorable to the nonmovant. *Cousins v.*
 7 *Lockyer*, 568 F.3d 1063, 1067 (9th Cir. 2009). However, the court need not accept as true
 8 legal conclusions that are couched as factual allegations. *Iqbal*, 556 U.S. at 678.

9 Here, Plaintiff’s 128-page FAC falls far short of the pleading standards of Rule
 10 8(a)(2). The FAC is excessively lengthy, confusing, and filled with irrelevant, conclusory,
 11 and speculative allegations, and it fails to provide fair notice of the legal and factual basis
 12 for Plaintiff’s claims.⁴ *See Twombly*, 550 U.S. at 555 (Rule 8(a)(2) requires a statement
 13 that “give[s] the defendant fair notice of what the claim is and the grounds upon which it
 14 rests” (internal quotations and alterations omitted)).

15 The FAC also fails to state any claim upon which relief can be granted, and dismissal
 16 under Federal Rule of Civil Procedure 12(b)(6) is warranted. Counts I and IV, Plaintiff’s
 17 workplace injury claims, fail to the extent they are premised on OSHA violations because
 18 “OSHA violations do not themselves constitute a private cause of action for breach.”
 19 *Crane v. Conoco, Inc.*, 41 F.3d 547, 553 (9th Cir. 1994). To the extent Counts I and IV
 20 allege “gross negligence,” the claims are barred by Arizona’s workers’ compensation
 21 statute, which provides the exclusive remedy for workplace injuries unless the employer
 22 engaged in “willful misconduct,” which Plaintiff has not plausibly alleged. *Ariz. Rev. Stat.*
 23 *§§ 23–1022(A)-(B)*; *Gamez v. Brush Wellman, Inc.*, 34 P.3d 375, 378 (Ariz. App. 2d Div.
 24 2001) (noting that “[i]t is well settled that work-related injury claims are generally
 25 redressed exclusively under Arizona’s workers’ compensation scheme” and holding that

26 ⁴ The FAC spans 128 single-spaced pages and includes wide-ranging allegations that often
 27 bear little connection to Plaintiff’s legal claims, such as accusations that Defendant’s
 28 managers committed perjury, conspired to obstruct workers’ compensation proceedings,
 and engaged in other criminal conduct. (*See, e.g.*, Doc. 13 at 14-15, 19-20.) Additionally,
 a significant portion of the FAC includes negative remarks about Plaintiff’s former co-
 workers that are unrelated to his legal claims. (*See, e.g., id.* at 76-66.)

1 “[g]ross negligence is not sufficient to establish willful misconduct”).

2 Plaintiff’s breach-of-contract claim in Count II must be dismissed because the FAC
3 fails to allege sufficient facts showing that RTX’s Code of Conduct created any enforceable
4 obligations for the employer. As the Arizona Supreme Court has explained, an employer’s
5 policy statement is contractual “only if it discloses a promissory intent or is one that the
6 employee could reasonably conclude constituted a commitment by the employer.”
7 *Demasse v. ITT Corp.*, 984 P.2d 1138, 1143 (Ariz. 1999) (internal quotations and
8 alterations omitted). A statement that merely describes “present policies” is not a promise
9 and cannot be reasonably relied upon as a commitment. *Id.* Count III, the
10 misrepresentation claim, must be dismissed because Plaintiff fails to identify a specific,
11 knowingly false statement of material fact that he reasonably relied upon to his detriment.
12 *See Standard Chartered PLC v. Price Waterhouse*, 945 P.2d 317, 340 (Ariz. App. 1st Div.
13 1996).

14 In Count VI, Plaintiff brings a claim of sex discrimination under Title VII. “To
15 establish federal subject matter jurisdiction, a plaintiff is required to exhaust his or her
16 administrative remedies before seeking adjudication of a Title VII claim.” *Lyons v. Eng.*,
17 307 F.3d 1092, 1103 (9th Cir. 2002). Claims not included in an EEOC charge are barred
18 unless they are “reasonably related to the allegations contained in the EEOC charge.” *Id.*
19 at 104. Plaintiff does not claim that he included a sex discrimination allegation in his
20 EEOC charge or that such a claim is reasonably related to the allegations he did raise.
21 (Doc. 25 at 4.) The Court, therefore, lacks subject matter jurisdiction over Count VI.

22 Finally, Plaintiff’s claims for age discrimination, retaliation, and hostile work
23 environment (Counts V, VII, and VIII) must be dismissed because they are based on
24 speculative and conclusory allegations, rather than specific facts showing that Plaintiff
25 personally experienced adverse treatment based on a protected characteristic or activity.

26 **IV. Dismissal Without Leave to Amend**

27 “A district court should not dismiss a pro se complaint without leave to amend
28 unless it is absolutely clear that the deficiencies of the complaint could not be cured by

1 amendment.” *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (internal quotation
2 marks omitted); *see also Chodos v. W. Publg. Co.*, 292 F.3d 992, 1003 (9th Cir. 2002)
3 (“when a district court has already granted a plaintiff leave to amend, its discretion in
4 deciding subsequent motions to amend is particularly broad” (internal quotations omitted)).

5 Here, Plaintiff has already been afforded an opportunity to amend his Complaint,
6 yet his 128-page FAC remains woefully deficient. The FAC fails to state any viable claim
7 and is “verbose, confusing and almost entirely conclusory.” *See Nevijel v. N. Coast Life*
8 *Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981) (upholding dismissal with prejudice under Rule
9 41(b) of a complaint that violated Rule 8(a) by being “verbose, confusing and almost
10 entirely conclusory”). Furthermore, it is riddled with irrelevant and speculative
11 information. For example, Plaintiff spends a considerable amount of time disparaging his
12 former coworkers, even alleging, without evidence, that one coworker was “bullied,
13 harassed, intimidated, transferred and demoted” to the point that he “decided to end it all
14 by committing suicide.” (Doc. 13 at 76-77, 117.) Additionally, Plaintiff devotes many
15 pages to conspiratorial claims about criminal allegations and to discussing grievances
16 involving other employees. (*Id.* at 14-16, 19-21, 117-120.) Given the many defects
17 identified in the FAC, it does not appear that Plaintiff could craft a viable complaint if
18 given another opportunity to amend. Plaintiff’s other filings—including his original
19 Complaint and his Response to Defendant’s Motion to Dismiss—also support the
20 conclusion that allowing further amendment would be futile. Accordingly, the Court will
21 dismiss the FAC without further leave to amend.

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1 **IT IS ORDERED** that Defendant's Motion to Dismiss (Doc. 16) is **granted**.
2 Plaintiff's First Amended Complaint (Doc. 13) and this action are **dismissed with**
3 **prejudice**. The Clerk of Court is directed to enter judgment in favor of Defendant and
4 close this case.

5 Dated this 30th day of July, 2025.

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Honorable Rosemary Márquez
United States District Judge